

# Construction defects in commercial residential construction projects

Proactive solutions, expectations, guidelines  
for quality assurance /quality control (QA/QC)

# Marketplace considerations

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- Historical data reveals much higher CD losses for residential construction
- Increase in for-sale housing is impacting our commercial contractors:
  - According to McGraw-Hill, 84 percent of new towers (20 stories or more) in the last three years were for residential multi-family use
- Zurich Services Corporation helps provide solutions to our customers without risking profitability

# Highlighted hotspots of high construction defect litigation

**10**

**Colorado**  
6 year Statute  
No Limitation

**Nevada**  
10 year statute  
No Limitation

**California**  
10 year statute  
No Limitation

**New England States**

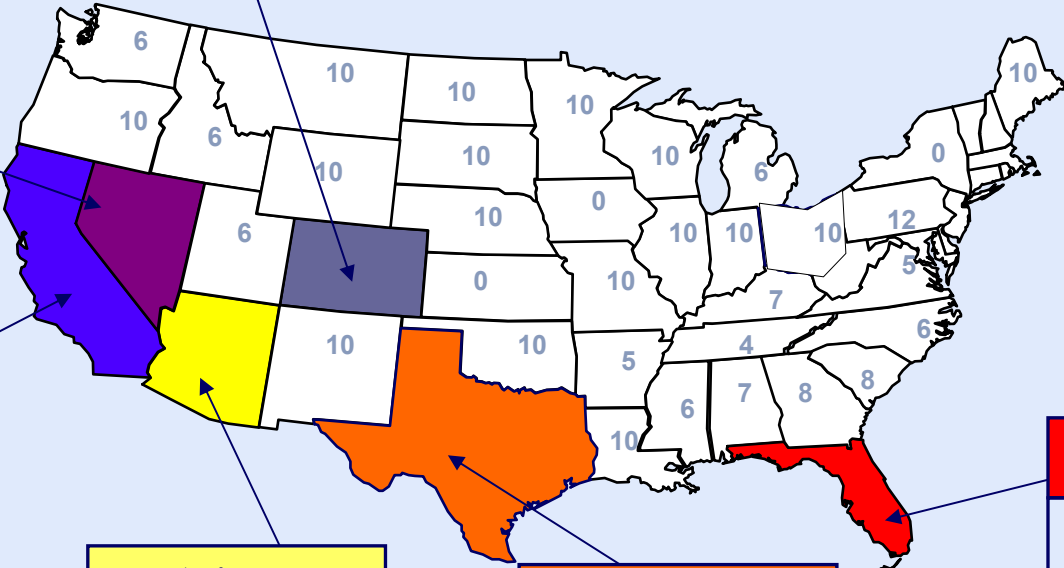
- Connecticut = 7
- D.C. = 10
- Delaware = 6
- Maine = 10
- Maryland = 10
- Massachusetts = 6
- New Hampshire = 8
- New Jersey = 10
- Rhode Island = 10
- Vermont = 0
- Virginia = 5
- West Virginia = 10

**Arizona**  
10 year statute  
No Limitation

**Texas**  
10 year statute  
No Limitation

**Florida**  
15 year statute  
4 year limitation

**10**



Jeff Holmes 5/05

# Why focus on construction defects?

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- Impact on Zurich's bottom line
  - Actual costs to repair defects covered by CGL insurance policies under the completed operations coverage part are increasing dramatically
  - Costs to investigate, defend and adjust construction defect claims are increasing dramatically
- Impact on customers
  - Customers need and want our assistance in avoiding the most common construction defect claims

# Construction defect definition

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- A construction defect claim is any claim for property damage that is:
  - progressive in nature which arises out of the construction of residential or commercial buildings or structures and occurs sometime after the construction operations have been completed
  - Such claims can be asserted against developers, owners, general contractors, subcontractors, product manufacturers or product distributors
- This definition also includes all claims against liability policies involving allegations of mold, either contamination because of mold, old growth because of water leaks or injuries caused by mold

# Most common construction defects

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- Roof leaks and defects
- Plumbing, drainage and other leaks
- Building structure
  - Foundation/walls/siding, floors, masonry, decks, balconies, earthquake, roofing, termites
- Infrastructure
  - landscape, erosion, parking structures, roads, asphalt, driveways, lighting, sewers
- Internal systems
  - Electrical, heating, security, elevators, solar panels, recreation facilities
- Other
  - paint, stucco, soundproofing, odor/vapor transmission, childproofing, etc.

# The role of risk engineering

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- Designated “commercial residential” risk engineers
- Greater focus on QA/QC programs for all contractors
  - Tap into Zurich’s Home Builders Protective Policy expertise
- Confirm types of projects completed and in progress with our insureds
- Identify trends in CD losses along with best practices for each contractor segment
- Assist underwriting in the evaluation of residential segment
  - What is an acceptable versus unacceptable risk?

# Commercial residential risk engineering expertise

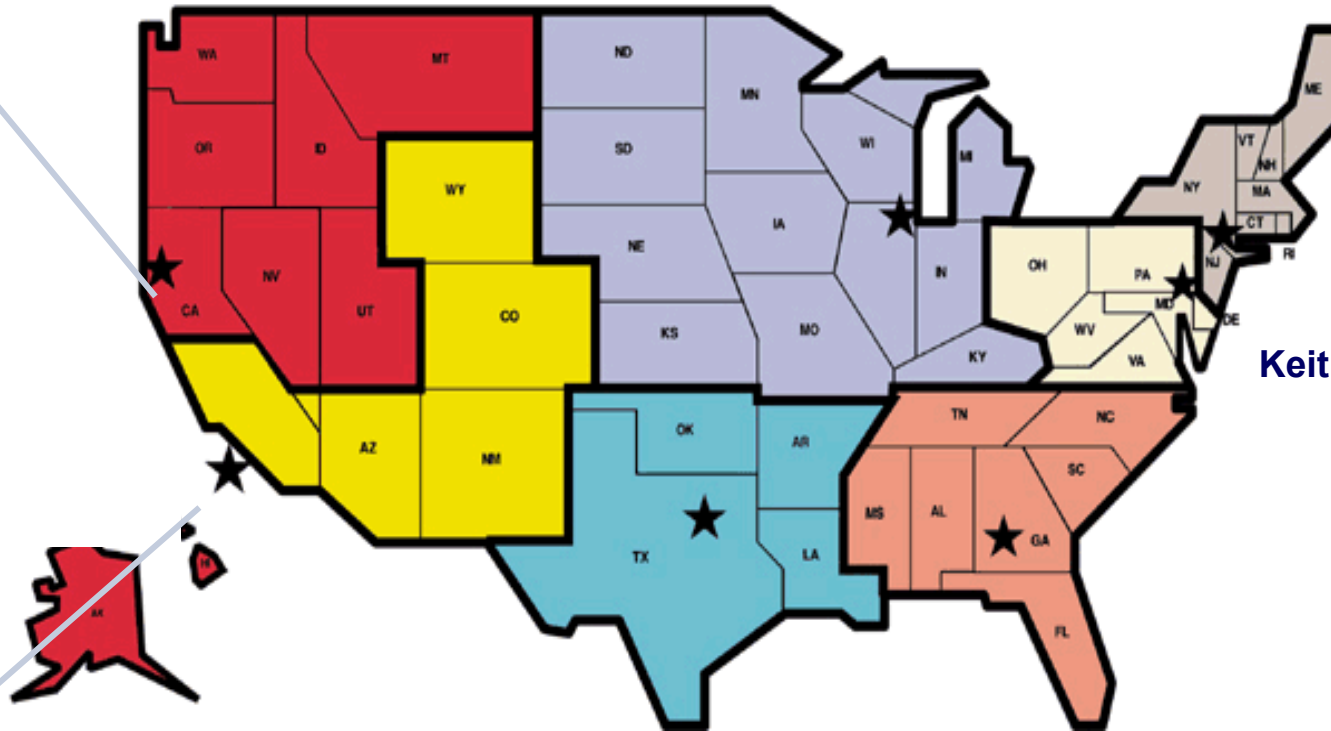
Richard Andrews – NW

Jeff Nolan-NW

Ken Hazelbaker - NW

Scott Merchant - NC

Jim Richert - NE



Keith Edwards -MA

Jeff Holmes - SW

Marshall Odell – SW

Felipe Devora –SC

Ron Chenault - SC

John Fitzgerald – SE

Lisa Keser – SE

Kevin Petrie – SE

# What is an effective QA/QC program?

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- Quality – conforming to the plans, specs and referenced codes or standards
- Quality control – verify construction/installation is in accordance with specifications/requirements
- Quality assurance – validation that the QC program is in place and effective. “Did we get what we paid for or promised the owner?”
- Third party evaluation, inspection and testing – documents that specifications were met

# Guidelines and expectations QA/QC

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- Minimum QA/QC programs
  - Planning for quality and zero defects – designate a quality “champion”
  - Water intrusion, noise and vapor controls
  - Soils and foundation Issues
  - Peer review of design documents
  - Third party inspections – who does what?
  - The importance of a document retention program
  - Photographic and video documentation prior to enclosing any wall, floor or ceiling
  - Specific inspection expectations



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